

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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ATTACHMENT NO. 2**INITIAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

TITLE 8: Chapter 4, Subchapter 6,
Article 13, Section 3089 of the Elevator Safety Orders; and

TITLE 24: Part 7, Article 7-13, Section 7-3089
of the California Elevator Safety Construction Code

Escalators, Clearance Between Skirt and Step**SUMMARY**

Existing subsection 3089(d)(3) of the Elevator Safety Orders specifies clearance dimensions between the escalator step and the adjacent skirt guard. The clearance requirements in subsection 3089(d)(3) were superseded by the requirements in subsection 3089(d)(6)(B), which became effective April 1, 2000. Inadvertently, subsection 3089(d)(3) was not deleted when the rulemaking proposal was submitted for subsection 3089(d)(6).

This proposal deletes subsection 3089(d)(3).

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

The Initial Statement of Reasons contains occupational safety and health regulations which are building standards for codification in Title 24, Part 7, California Elevator Safety Construction Code. The building standards, herein, are identified by their Title 24 section number in **bold** type following the corresponding Title 8 statement of reasons.

Section 3089. Construction Requirements.**Subsection 3089(d)(3)**

This proposal deletes subsection 3089(d)(3). The requirements in subsection 3089(d)(3) were superseded by the escalator requirements in subsection 3089(d)(6), which became effective April 1, 2000. As a result of the proposed deletion of subsection 3089(d)(3), subsection 3089(d)(6) has been renumbered to subsection 3089(d)(5).

(Title 24, Part 7, Section 7-3089)

The proposal is necessary to avoid contradiction with existing subsection 3089(d)(6)(B).

**REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC
IMPACT ON SMALL BUSINESSES**

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

These proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed regulations do not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may effect small businesses.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.